STATE OF MICHIGAN
46th DISTRICT COURT

DISTRICT JUDGES

The Honorable
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The Honorable
SUSAN M. MOISEEV
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The Honorable
WILLIAM J. RICHARDS
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ADMINISTRATOR
DONNA BEAUDET
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CIVIL DIVISION
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CIVIL INFRACTION/
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March 14, 2012

House Judiciary Committee
P.O. Box 30014
Lansing, MI 48909

Re: SB 269 - Small Claims Jurisdiction

Dear Honorable Chair and Judiciary Committee Members:

The Michigan Court Administration Association (MCAA) strongly opposes increasing the jurisdiction of small claims court. Our major concern is that such an increase would negatively impact the quality of justice. It would also negatively impact court resources at a time when courts are facing significant fiscal challenges. The following is a summary of our concerns based on our substantial and direct experience with small claims cases and parties.

- **Significant departure from the original intent of small claims court** – Small claims court was designed as a forum for the resolution of minor disputes where parties unfamiliar with the court system could resolve their disputes in an informal manner. As a general rule, the higher the jurisdiction, the more complicated the issues and need for standard legal procedures to ensure the quality of justice.

- **Raising the jurisdictional limits too high is a disservice to the public** - Most people are unfamiliar with the court system and do not fully understand the significant rights and protections they give up when they are in small claims court, such as the right to an attorney, the right to an appeal and the right of discovery. They also lack the sufficient legal knowledge to effectively plead or defend substantive issues. Even with a $3,000 jurisdictional limit, court clerks spend considerable time explaining to upset parties why they cannot appeal their small claims case. Raising the limit to $8,000 will mislead parties into thinking they can handle these matters themselves when it may be in their best interests to be represented. A corporation thinking it can save money by not having an attorney represent them may lose more money when they lose their case because their employee wasn't able to handle a more complicated legal issue at trial and they have no right to appeal.

These situations only serve to undermine the public's appreciation for the court system.

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- **Negative impact on court workload and resources** – While an increase in small claims jurisdiction will have no increase on total district court caseload, it will negatively impact court workload and resources at a time when courts are facing significant budget cuts.

    - Small claims cases are more difficult and time consuming to process than general civil cases because of the amount of staff time required to explain terminology, procedures, collection options etc., to those unfamiliar with the court system. If small claims jurisdiction is significantly increased, there will be more non-attorneys filing cases, garnishments, seizures etc. with little procedural knowledge, demanding more assistance from court staff and making mistakes. Mistakes are made by small businesses and credit unions as well as individuals filing small claims cases.

    - Significantly increasing small claims jurisdiction will shift considerable workload and costs from the private sector to the courts because the statute requires a court clerk to assume responsibility for service of a small claims case. In a general civil case, it is the plaintiff who has this responsibility. Such a shift in workload will only serve to help the private sector at the expense of the taxpayer.

    - Increasing small claims jurisdiction will also increase the number of cases that must be scheduled for hearing, taking up valuable and often limited court time. In a general civil case, a hearing is not scheduled unless an answer has been filed. Since the vast majority of general civil cases end in default judgment because no answer was filed, a hearing does not need to be scheduled. However, in small claims court, all cases must be scheduled for hearing, regardless of whether an answer is filed. This will create unnecessary work for the courts.

    - From a security standpoint, small claims cases also tend to be more heated because there is no attorney to assist with client control. This creates security issues for courts which may also impact resources.

- **Comparisons to other states that just consider small claims dollar amounts are too generic and misleading** – Any comparison to other states must also take into consideration the differing court structures and rights afforded. While Michigan has courts of general jurisdiction (circuit courts) and limited jurisdiction (district courts), other states may only have courts of general jurisdiction. Generally, states that do not have the equivalent of a district court tend to have a small claims court with higher jurisdictional limits but still retain various rights such as the right to be represented by an attorney. The following are some examples:

    - The Illinois Small Claims Court has a $10,000 limit; attorneys are not only allowed, they are required for corporations. Jury trials are also available on small claims cases in Illinois.

    - The Indiana Small Claims Court has a $6,000 limit and attorneys are allowed.

    - The Wisconsin Small Claims Court has a $5,000 limit and attorneys are allowed and required for assignees.

    - The New York Small Claims Court has a $5,000 limit and attorneys are allowed.

- **Changes that significantly increase small claims jurisdiction may have a ripple effect on the current court system's structure and should not be made in an ad hoc manner –**
    - Under the circumstances, will there be legislation to also change the general civil jurisdiction of municipal courts?
    - What impact will this have on the jurisdiction of district court general civil cases?
    - What impact would these changes have on the recommendations of 2011 Judicial Resources Report?
- **Relaxed rules of small claims court can create an incubator for predatory debt collection practices** – Courts have been inundated with cases and problems related to debt buying. The relaxed rules, fewer protections and shorter time frames of small claims court will allow faster judgments to be entered against unsophisticated defendants based on little or no documentation. Significantly raising the jurisdictional limits of small claims will open the door for predatory collection activity. There are no professional standards for the non-attorneys who will be handling these cases.
- **Issues regarding the unauthorized practice of law** – Many businesses currently use agents in a variety of ways to handle collection cases in small claims court. Over time, they develop a specialization and a sophistication that can create an uneven playing field and possibly border on the unauthorized practice of law. Once again, given the sometimes predatory nature of collection efforts, these issues need to be examined more closely before the jurisdictional limit is increased.

As court administrators, we are responsible for the fair and efficient administration of justice. We believe that changes in jurisdictional limits should be reviewed in a comprehensive manner that takes into consideration and balances the best interests of all parties and the administration of justice.

We would be happy to discuss these issues further and work with you on a solution that addresses our concerns.

Very truly yours,

Donna Beaudet
Co-Chair, Legislative Committee
Michigan Court Administration Association

cc Tabitha Wedge, President, MCAA
Kevin McKay, Co-Chair, MCAA Legislative Committee